

REMARKS

The Office examined claims 1-13 and rejected same. With this paper, the claims are unchanged except to correct an obvious typographical error in claims 11 and 12. Thus claims 1-13 are still pending.

The independent claims are 1, 2, 5, 10 and 13.

Claim rejections under 35 U.S.C. §103

At page 2 of the Office action, claims 1-13 are rejected under 35 USC 103(a) as being unpatentable over Stefik (US 5,715,403) in view of Grawrock et al. (US 2004/0093506).

Stefik discloses a repository of works on a computer--the repository. A request for a work on the repository can be made by another computer--a client computer. The request is granted or not, depending on rights that are associated with the work. A credit server bills the client, and the bill can be provided by a billing clearinghouse. Grawrock discloses user equipment hosting a browser and accessing a computer over the Internet.

With regard to claim 1, the Office asserts that Stefik discloses each of the claimed elements, except for use of a browser. The Office first relates Stefik to the invention generally. Citing col. 7, lines 16-48, col. 17, lines 5-60, and figures 1 and 3, the Office observes that in Stefik, the billing clearinghouse sends bills for access by a client computer to works stored on the repository, and thus the billing clearinghouse acts as the third party recited in the claims. The Office asserts, based on the same disclosure, that the bills can be based on how long the client accesses the work. Applicant sees that in Stefik the billing clearinghouse receives bills from a credit server, and receives the bills only "on a periodic basis" (see col. 8, line 28), not in real time, i.e. there is no communication by the repository or the client computer with the billing clearinghouse

in such a way that the billing clearinghouse is advised of when the client begins accessing a work (so as to be able to time the access), as required by the claims. Applicant does see that Stefik discloses (at col. 17, line 15) "metered use" as an "alternative model" (of which another is "variable fees"). Stefik then explains (line 19 of col. 17) that "A key to these alternative charging models is to have a low overhead means of establishing fees and accounting for credit on these transactions." The present invention provides such a low overhead mechanism: a consumer exercises a start session link on a third-party web page, which prompts the third party to begin timing access. Stefik nowhere even teaches or suggests how to arrange when to start timing access, let alone a low overhead way of doing so. Without a mechanism for triggering when to start timing, and preferably a low-overhead mechanism such as provided by the invention, billing based on time of access is a mere pipe dream. (Applicant also notes that at col. 30, line 16, Stefik discloses a "begin-charges transaction," for metered use. Stefik explains only (at line 21, col. 30) that in case of a begin-charges transaction, "The credit server is then responsible for running a clock." Stefik nowhere discloses a mechanism by which the begin-charges transaction is generated. The invention provides such a mechanism; when a consumer exercises (i.e. clicks on) a start session link on a web page of the third party, the third party is prompted to start timing access. The only other mention of anything related to metered use appears to be at col. 36, line 30, where Stefik discloses that a borrower of a work may return it early, before the work is "automatically returned," because "Returning early may reduce [the] fee.")

Regarding the limitations recited in the body of claim 1, the Office asserts that Stefik discloses having a consumer, while connected to a vendor, exercise a third-party link that will connect the consumer to a third party, citing col. 18, lines 1-42,

and fig. 14. At the cited location Stefik discloses that a digital work is stored with usage rights, such as the right to make five copies for \$10.00 (col. 18, lines 15). Conditions may be specified, including time (col. 19, line 39), which is explained at col. 19, line 29, as a time limit on the use of the right (e.g. a time limit on the use of the right, for example on the right to make a copy). There is not even mention at the cited location of the third party, which the Office indicates as the billing clearinghouse. Applicant thus also notes that there is here no disclosure whatsoever of any mechanism at a vendor site (presumably the repository computer) for connecting the consumer to a third party (presumably the billing clearinghouse, or possibly the credit server), as required by the claim.

The Office next asserts that Stefik discloses having the third party provide to the consumer an exercisable start-session link for starting access to the information, relying on col. 8, lines 22-32, and figs. 11 and 15, and noting that in fig. 15 "Stefik discloses start-session by periodically recording billing transactions based on when the customer starts and end [sic]."
Applicant has already explained above that Stefik nowhere discloses the recited mechanism, and respectfully submits in the disclosure relied on here, Stefik teaches only a credit server that accumulates billing information for the repository of digital works, and reporting billing transactions to the repository and, periodically, to a billing clearinghouse. So the Office asserts that the credit server's periodic communication of billing transactions to the billing clearinghouse is tantamount to a disclosure of a third party providing to a consumer an exercisable start-session link for starting access to information. Applicant respectfully submits that this is not a fair reading of the claim, even taking into account that the Office concedes that Stefik does not disclose use of a browser by the consumer. There is no mechanism disclosed by which the third party (i.e. the credit

server, in the combination made by the Office) provides to a consumer a basis for initiating timed access so as to signal to a third party to begin timing, let alone doing so by means of a start-session link provided to the consumer by the third party, as recited.

Claim 1 also recites having the third party both begin timing access and redirect the consumer to the information if the consumer exercises the start-session link. The Office does not even assert that Stefik (or Grawrock) discloses this limitation. As noted above, the Office likens the billing clearinghouse to the third party. The billing clearinghouse is nowhere disclosed by Stefik as directing a requestor to a work in the repository. The only other candidate for the third party recited in claim 1 is the credit server, and Stefik does not disclose the credit server directing a requestor to a work in the repository. For this omission alone, the rejections cannot stand, since the Office does not even make a *prima facie* case of obviousness, as required by MPEP 706.02(j) (requiring that the combined references teach or suggest each limitation recited in the claim being rejected).

Finally, the Office asserts that Stefik discloses that "the third-party link and the start-session link are links on respective pages for presentation to the consumer by equipment operated by the consumer," citing figs. 15-18, and noting that "Stefik discloses time duration of the usage by the consumer." Applicant respectfully submits and insists that disclosure of mere "time duration of the usage by the consumer" is not sufficient to ground the rejection; disclosure of "time duration of usage" in no way can be asserted as a fair interpretation of the limitation that the third-party link and the start-session link are links on respective pages (i.e. so-called web pages) for presentation to the consumer by equipment operated by the consumer. And the mere disclosure by Grawrock of use of a browser cannot remedy the failure by Stefik to teach the recited links. Claim 1 distinctly

claims the links as a third-party link and a start-session link. The combination of Stefik, which fails to teach anything other than the possibility of metered use and the use of a "begin-charges transaction" for same, and Grawrock which teaches the use of a browser generally, cannot fairly be said to teach the recited links.

The Office explains that Grawrock "discloses a browser hosted when he [sic] discloses an Internet system," and "discloses records may be stored as digital data in a computer that is operatively coupled to a network (e.g. the Internet)," and that "His [sic] system authorizes user[s] to connect via the Internet with a Web site," and "[t]hus, it would have been obvious... to implement a browser hosted in an Internet that has a Web site as discloses [sic] in Grawrock." The Office thus asserts that all that is missing from Stefik is the use of a browser. But as applicant has explained, there is no teaching at all by Stefik of anything like the recited mechanism for triggering timing by a third party of access by a consumer to information provided by a vendor, i.e. the use of a start-session link on the third-party web page, made possible by the third-party link on the vendor web page, redirecting the consumer from the vendor to the third-party.

If the Office still believes the invention is obvious based on Stefik and Grawrock, applicant respectfully asks the Office to put aside the claims and decide whether it is a simple matter to explain, without looking at the claims, how the invention works with the recited redirection provided by the links. Applicant notes for the Office that the recited redirection is not essential. A consumer could visit a web page hosted by a vendor, decide to access information provided by the vendor as indicated by the web page, initiate access, and then stop access without ever connecting to the third party. The vendor could inform the third party of the start and stop times, and the billing could then be performed by the third party. The invention, however,

uses the third party as timer because it is more likely that a consumer would be more likely to trust a well-recognized third party to be accurate in its timing.

Regarding claims 10 and 13, which the Office rejects in the same way as claim 1, the same arguments apply.

Regarding claims 2 and 5, these each recite limitations corresponding to those of claims 1, 10 and 13. The "pricetag" link of claims 2 and 5 is the "third-party" link of claim 1. The "link to the start session address" of claim 2 is the "start-session" link of claim 1 (and the "start-session" link of claim 5 is of course the "start-session" link of claim 1). Thus, the same arguments used in traversing the rejection of claim 1 apply also to claims 2 and 5.

Accordingly, applicant respectfully requests that the rejections of claims 1, 2, 5, 10 and 13 under 35 USC §103 be reconsidered and withdrawn, and the same for the claims not argued, at least by virtue of their dependencies.

Conclusion

For all the foregoing reasons it is believed that claims 1-13 are in condition for allowance and their passage to issue is earnestly solicited.

Respectfully submitted,

Date

James A. Retter
Registration No. 41,266
Patent Agent for the Applicant

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
755 Main Street, P.O. Box 224
Monroe, CT 06468-0224

tel: (203) 261-1234
Cust. No.: 004955



Serial No. 09/368,996
Att. Docket No. 2-604.2-1

uses the third party as timer because it is more likely that a consumer would be more likely to trust a well-recognized third party to be accurate in its timing.

Regarding claims 10 and 13, which the Office rejects in the same way as claim 1, the same arguments apply.

Regarding claims 2 and 5, these each recite limitations corresponding to those of claims 1, 10 and 13. The "pricetag" link of claims 2 and 5 is the "third-party" link of claim 1. The "link to the start session address" of claim 2 is the "start-session" link of claim 1 (and the "start-session" link of claim 5 is of course the "start-session" link of claim 1). Thus, the same arguments used in traversing the rejection of claim 1 apply also to claims 2 and 5.

Accordingly, applicant respectfully requests that the rejections of claims 1, 2, 5, 10 and 13 under 35 USC §103 be reconsidered and withdrawn, and the same for the claims not argued, at least by virtue of their dependencies.

Conclusion

For all the foregoing reasons it is believed that claims 1-13 are in condition for allowance and their passage to issue is earnestly solicited.

10 August 2006
Date

Respectfully submitted,


James A. Retter
Registration No. 41,266
Patent Agent for the Applicant

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
755 Main Street, P.O. Box 224
Monroe, CT 06468-0224

tel: (203) 261-1234
Cust. No.: 004955